IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

TUESDAY, THE 4TH SEPTEMBER 2007 / 13TH BHADRA 1929

WP(C).No. 10706 of 2007(Y)

OS.1079/2004 of II ADDL.M.C.,TRIVANDRUM

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PETITIONER:

KRISHNAN NAIR, S/O.MADHAVAN PILLAI,
GOWRI VILASOM, CHEKKEKONAM, KARAKULAM P.O.,
THIRUVANANTHAPURAM.

BY ADV. SRI.V.SURESH
SRI.G.SUDHEER

RESPONDENTS:

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1. **SRI.RAMAKRISHNA ASHRAMAM,**
   SASTHAMANGALAM, REPRESENTED BY ITS
   PRESIDENT SWAMI LOKAHITANANDA.

2. **RAMAKRISHNA MATH, BELUR MATH,**
   HOWRAH, WEST BENGAL.

BY ADV. SRI.U.K.RAMAKRISHNAN for R1
SRI.E.K.MADHAVAN
SRI.P.V.LOHITHAKSHAN
SMT.P.VIJAYAMMA
SMT.UMA GOPINATH

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 04/09/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WPC.NO.10706/2007 Y

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1: **COPY OF THE PLAINT FILED BY THE 1ST RESPONDENT BEFORE THE MUNSIFF COURT, THIRUVANANTHAPURAM DTD. 15/07/2004.**

EXT.P2: **COPY OF WRITTEN STATEMENT FILED THE DEFENDANT IN O.S.NO.1079 OF 2004 DTD. 2/02/2005.**

EXT.P3: **COPY OF THE IMPLEADING PETITION WITH AFFIDAVIT FILED BY THE PLAINTIFF IN O.S.NO.1079/2004.**

EXT.P4: **COPY OF THE COUNTER AFFIDAVIT FILED BY THE DEFENDANT IN O.S.NO.1079/2004 DTD. 31/01/2007.**

EXT.P5: **COPY OF THE PETITION FILED BY THE PLAINTIFF IN O.S.NO. 1079 OF 2004 DTD. 8/02/2007.**

EXT.P6: **COPY OF THE COUNTER AFFIDAVIT FILED BY DEFENDANT INO.S.NO.1079/2004 DTD. 13/02/2007.**

EXT.P7: **COPY OF THE ORDER IN I.A.NO.742/2007 IN O.S.NO.1079/2004 PASSED BY THE II ADDL.MUNSIFF, THIRUVANANTHAPURAM DTD. 17/02/2007.**

EXT.P8: **COPY OF THE ORDER DTD. 17/02/2007 IN I.A.NO.1427/2007 IN O.S.NO.1079/2004 PASSED BY THE II ADDITIONAL MUNSIFF COURT, THIRUVANANTHAPURAM.**

/TRUE COPY/

P.S.TO JUDGE

KSS

M.N.KRISHNAN, J

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W.P.(C) No.10706 OF 2007

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Dated this the 4th day of September 2007

JUDGMENT

This writ petition is filed to set aside the orders Exts.P7 and P8. As far as Ext.P8 is concerned, it is only a petition to permit the power of attorney holder to represent the proposed plaintiff. But unfortunately while drafting, the prayer was on the reverse direction. But the pleading in the affidavit would clearly reveal the intention of the party. As pointed out by the court below, it is only a mistake committed by the Lawyer and therefore I do not find any ground to interfere with Ext.P8 order and therefore it is confirmed.

2. So far as Ext.P7 is concerned, it is an application whereby the plaintiff wants to implead the original owner of the plaint schedule property. The suit is filed by the beneficiary and it is submitted that on account of the bona fide omission, the original owner was omitted to be impleaded. A perusal of Ext.P4 would show that the respondent had raised very serious objections regarding the impleadment at that stage. Unfortunately the learned Munsiff has not considered those aspects at all and by a cryptic

order had allowed the application, which requires interference.

Therefore, the order under challenge, viz.,Ext.P7 is set aside and the learned Munsiff is directed to consider I.A.No.742 of 2007 afresh after hearing both sides and pass a considered order in accordance with law.

Writ petition is disposed of as above.

M.N.KRISHNAN, JUDGE

Cdp/-